

**FILED**

**OCT 19 2005**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

YESSENIA SOTO-MORALES,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-75044

Agency No. A79-369-860

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted October 11, 2005<sup>\*\*</sup>

Before: HALL, T.G. NELSON, and TALLMAN, Circuit Judges.

Yessenia Soto-Morales, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' decision summarily affirming an Immigration Judge's ("IJ") denial of her applications for asylum and withholding

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252. Reviewing for substantial evidence, *see Thomas v. Gonzales*, 409 F.3d 1177, 1182 (9th Cir. 2005) (en banc), we grant the petition for review.

Soto-Morales testified that her husband was murdered in her presence and that the killers told her they would do the same to her if she said anything. The IJ denied relief because Soto-Morales did not establish that her husband's murder, and the threats to her life, were on account of a protected ground.

We grant the petition for review and remand for the agency to re-evaluate Soto-Morales's claim in light of our recent decision in *Thomas*. *See id.*

**PETITION FOR REVIEW GRANTED; REMANDED.**